

ASSEMBLY BILL

No. 1199

Introduced by Assembly Member Nazarian

February 27, 2015

An act to amend Sections 17053.95 and 23695 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1199, as introduced, Nazarian. Income taxes: credits: motion pictures.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws, including motion picture credits for taxable years beginning on or after January 1, 2016, to be allocated by the California Film Commission on or after July 1, 2015, and before July 1, 2020. Existing law limits the aggregate amount of these credits allocated in each fiscal year to \$330 million and, subject to a computation and ranking of applicants based on a jobs ratio, requires the California Film Commission to allocate credit amounts for, among others, a specified category of qualified motion pictures in an amount equal to 20% of qualified expenditures for the production of that motion picture in California. Existing law allows additional credits for such a qualified motion picture for, among other things, 5% of the qualified expenditures related to music scoring and music track recording by musicians attributable to the production of the qualified motion picture in California.

This bill would instead authorize that additional 5% for qualified expenditures relating to “qualified music preparation, music scoring, music track recording, and music editing,” but would limit the scope

of that term to the described activities for which a specified amount of the total expenditures is paid or incurred in California.

This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17053.95 of the Revenue and Taxation
2 Code is amended to read:
3 17053.95. (a) (1) For taxable years beginning on or after
4 January 1, 2016, there shall be allowed to a qualified taxpayer a
5 credit against the “net tax,” as defined in Section 17039, subject
6 to a computation and ranking by the California Film Commission
7 in subdivision (g) and the allocation amount categories described
8 in subdivision (i), in an amount equal to 20 percent or 25 percent,
9 whichever is the applicable credit percentage described in
10 paragraph (4), of the qualified expenditures for the production of
11 a qualified motion picture in California. A credit shall not be
12 allowed under this section for any qualified expenditures for the
13 production of a motion picture in California if a credit has been
14 claimed for those same expenditures under Section 17053.85.
15 (2) Except as otherwise provided in this section, the credit shall
16 be allowed for the taxable year in which the California Film
17 Commission issues the credit certificate pursuant to subdivision
18 (g) for the qualified motion picture, but in no instance prior to July
19 1, 2016, and shall be for the applicable percentage of all qualified
20 expenditures paid or incurred by the qualified taxpayer in all
21 taxable years for that qualified motion picture.
22 (3) The amount of the credit allowed to a qualified taxpayer
23 shall be limited to the amount specified in the credit certificate
24 issued to the qualified taxpayer by the California Film Commission
25 pursuant to subdivision (g).
26 (4) For purposes of paragraphs (1) and (2), the applicable credit
27 percentage shall be:

1 (A) Twenty percent of the qualified expenditures attributable
2 to the production of a qualified motion picture in California,
3 including, but not limited to, a feature, up to one hundred million
4 dollars (\$100,000,000) in qualified expenditures, or a television
5 series that relocated to California that is in its second or subsequent
6 years of receiving a tax credit allocation pursuant to this section
7 or Section 17053.85.

8 (B) Twenty-five percent of the qualified expenditures
9 attributable to the production of a qualified motion picture in
10 California where the qualified motion picture is a television series
11 that relocated to California in its first year of receiving a tax credit
12 allocation pursuant to this section.

13 (C) Twenty-five percent of the qualified expenditures, up to ten
14 million dollars (\$10,000,000), attributable to the production of a
15 qualified motion picture that is an independent film.

16 (D) Additional credits shall be allowed to a qualified motion
17 picture whose applicable credit percentage is determined pursuant
18 to subparagraph (A), in an aggregate amount not to exceed 5
19 percent of the qualified expenditures under that subparagraph, as
20 follows:

21 (i) (I) Five percent of qualified expenditures relating to original
22 photography outside the Los Angeles zone.

23 (II) For purposes of this clause:

24 (ia) “Applicable period” means the period that commences with
25 preproduction and ends when original photography concludes. The
26 applicable period includes the time necessary to strike a remote
27 location and return to the Los Angeles zone.

28 (ib) “Los Angeles zone” means the area within a circle 30 miles
29 in radius from Beverly Boulevard and La Cienega Boulevard, Los
30 Angeles, California, and includes Agua Dulce, Castaic, including
31 Lake Castaic, Leo Carillo State Beach, Ontario International
32 Airport, Piru, and Pomona, including the Los Angeles County
33 Fairgrounds. The Metro Goldwyn Mayer, Inc. Conejo Ranch
34 property is within the Los Angeles zone.

35 (ic) “Original photography” includes principal photography and
36 reshooting original footage.

37 (id) “Qualified expenditures relating to original photography
38 outside the Los Angeles zone” means amounts paid or incurred
39 during the applicable period for tangible personal property
40 purchased or leased and used or consumed outside the Los Angeles

1 zone and relating to original photography outside the Los Angeles
2 zone and qualified wages paid for services performed outside the
3 Los Angeles zone and relating to original photography outside the
4 Los Angeles zone.

5 (ii) Five percent of the qualified expenditures relating to
6 *qualified music preparation*, ~~music-scoring and scoring~~, music
7 track recording, *and music editing* by musicians attributable to
8 the production of a qualified motion picture in California.

9 (iii) Five percent of the qualified expenditures relating to
10 qualified visual effects attributable to the production of a qualified
11 motion picture in California.

12 (b) For purposes of this section:

13 (1) “Ancillary product” means any article for sale to the public
14 that contains a portion of, or any element of, the qualified motion
15 picture.

16 (2) “Budget” means an estimate of all expenses paid or incurred
17 during the production period of a qualified motion picture. It shall
18 be the same budget used by the qualified taxpayer and production
19 company for all qualified motion picture purposes.

20 (3) “Clip use” means a use of any portion of a motion picture,
21 other than the qualified motion picture, used in the qualified motion
22 picture.

23 (4) “Credit certificate” means the certificate issued by the
24 California Film Commission pursuant to subparagraph (C) of
25 paragraph (3) of subdivision (g).

26 (5) (A) “Employee fringe benefits” means the amount allowable
27 as a deduction under this part to the qualified taxpayer involved
28 in the production of the qualified motion picture, exclusive of any
29 amounts contributed by employees, for any year during the
30 production period with respect to any of the following:

31 (i) Employer contributions under any pension, profit-sharing,
32 annuity, or similar plan.

33 (ii) Employer-provided coverage under any accident or health
34 plan for employees.

35 (iii) The employer’s cost of life or disability insurance provided
36 to employees.

37 (B) Any amount treated as wages under clause (i) of
38 subparagraph (A) of paragraph (21) shall not be taken into account
39 under this paragraph.

1 (6) “Independent film” means a motion picture with a minimum
2 budget of one million dollars (\$1,000,000) that is produced by a
3 company that is not publicly traded and publicly traded companies
4 do not own, directly or indirectly, more than 25 percent of the
5 producing company.

6 (7) “Jobs ratio” means the amount of qualified wages paid to
7 qualified individuals divided by the amount of tax credit, not
8 including any additional credit allowed pursuant to subparagraph
9 (D) of paragraph (4) of subdivision (a), as computed by the
10 California Film Commission.

11 (8) “Licensing” means any grant of rights to distribute the
12 qualified motion picture, in whole or in part.

13 (9) “New use” means any use of a motion picture in a medium
14 other than the medium for which it was initially created.

15 (10) “Pilot for a new television series” means the initial episode
16 produced for a proposed television series.

17 (11) (A) “Postproduction” means the final activities in a
18 qualified motion picture’s production, including editing, foley
19 recording, automatic dialogue replacement, sound editing, scoring,
20 music track recording by musicians and music editing, beginning
21 and end credits, negative cutting, negative processing and
22 duplication, the addition of sound and visual effects, sound mixing,
23 film-to-tape transfers, encoding, and color correction.

24 (B) “Postproduction” does not include the manufacture or
25 shipping of release prints or their equivalent.

26 (12) “Preproduction” means the process of preparation for actual
27 physical production which begins after a qualified motion picture
28 has received a firm agreement of financial commitment, or is
29 greenlit, with, for example, the establishment of a dedicated
30 production office, the hiring of key crew members, and includes,
31 but is not limited to, activities that include location scouting and
32 execution of contracts with vendors of equipment and stage space.

33 (13) “Principal photography” means the phase of production
34 during which the motion picture is actually shot, as distinguished
35 from preproduction and postproduction.

36 (14) “Production period” means the period beginning with
37 preproduction and ending upon completion of postproduction.

38 (15) “Qualified entity” means a personal service corporation as
39 defined in Section 269A(b)(1) of the Internal Revenue Code, a

1 payroll services corporation, or any entity receiving qualified wages
2 with respect to services performed by a qualified individual.

3 (16) “Qualified expenditures” means amounts paid or incurred
4 for tangible personal property purchased or leased, and used, within
5 this state in the production of a qualified motion picture and
6 payments, including qualified wages, for services performed within
7 this state in the production of a qualified motion picture.

8 (17) (A) “Qualified individual” means any individual who
9 performs services during the production period in an activity related
10 to the production of a qualified motion picture.

11 (B) “Qualified individual” shall not include either of the
12 following:

13 (i) Any individual related to the qualified taxpayer as described
14 in subparagraph (A), (B), or (C) of Section 51(i)(1) of the Internal
15 Revenue Code.

16 (ii) Any 5-percent owner, as defined in Section 416(i)(1)(B) of
17 the Internal Revenue Code, of the qualified taxpayer.

18 (18) (A) “Qualified motion picture” means a motion picture
19 that is produced for distribution to the general public, regardless
20 of medium, that is one of the following:

21 (i) A feature with a minimum production budget of one million
22 dollars (\$1,000,000).

23 (ii) A movie of the week or miniseries with a minimum
24 production budget of five hundred thousand dollars (\$500,000).

25 (iii) A new television series of episodes longer than 40 minutes
26 each of running time, exclusive of commercials, that is produced
27 in California, with a minimum production budget of one million
28 dollars (\$1,000,000) per episode.

29 (iv) An independent film.

30 (v) A television series that relocated to California.

31 (vi) A pilot for a new television series that is longer than 40
32 minutes of running time, exclusive of commercials, that is produced
33 in California, and with a minimum production budget of one
34 million dollars (\$1,000,000).

35 (B) To qualify as a “qualified motion picture,” all of the
36 following conditions shall be satisfied:

37 (i) At least 75 percent of the principal photography days occur
38 wholly in California or 75 percent of the production budget is
39 incurred for payment for services performed within the state and
40 the purchase or rental of property used within the state.

1 (ii) Production of the qualified motion picture is completed
2 within 30 months from the date on which the qualified taxpayer's
3 application is approved by the California Film Commission. For
4 purposes of this section, a qualified motion picture is "completed"
5 when the process of postproduction has been finished.

6 (iii) The copyright for the motion picture is registered with the
7 United States Copyright Office pursuant to Title 17 of the United
8 States Code.

9 (iv) Principal photography of the qualified motion picture
10 commences after the date on which the application is approved by
11 the California Film Commission, but no later than 180 days after
12 the date of that approval unless death, disability, or disfigurement
13 of the director or of a principal cast member, an act of God,
14 including, but not limited to, fire, flood, earthquake, storm,
15 hurricane, or other natural disaster, terrorist activities, or
16 government sanction has directly prevented a production's ability
17 to begin principal photography within the prescribed 180-day
18 commencement period.

19 (C) For the purposes of subparagraph (A), in computing the
20 total wages paid or incurred for the production of a qualified
21 motion picture, all amounts paid or incurred by all persons or
22 entities that share in the costs of the qualified motion picture shall
23 be aggregated.

24 (D) "Qualified motion picture" shall not include commercial
25 advertising, music videos, a motion picture produced for private
26 noncommercial use, such as weddings, graduations, or as part of
27 an educational course and made by students, a news program,
28 current events or public events program, talk show, game show,
29 sporting event or activity, awards show, telethon or other
30 production that solicits funds, reality television program, clip-based
31 programming if more than 50 percent of the content is comprised
32 of licensed footage, documentaries, variety programs, daytime
33 dramas, strip shows, one-half hour (air time) episodic television
34 shows, or any production that falls within the recordkeeping
35 requirements of Section 2257 of Title 18 of the United States Code.

36 (18.5) "*Qualified music preparation, music scoring, music track*
37 *recording, and music editing*" means music preparation, music
38 scoring, music track recording, and music editing where at least
39 75 percent or a minimum of one hundred thousand dollars
40 (\$100,000) of the total expenditures for the music preparation,

1 *music scoring, music track recording, and music editing is paid*
2 *or incurred in California.*

3 (19) (A) “Qualified taxpayer” means a taxpayer who has paid
4 or incurred qualified expenditures, participated in the Career
5 Readiness requirement, and has been issued a credit certificate by
6 the California Film Commission pursuant to subdivision (g).

7 (B) In the case of any pass-thru entity, the determination of
8 whether a taxpayer is a qualified taxpayer under this section shall
9 be made at the entity level and any credit under this section is not
10 allowed to the pass-thru entity, but shall be passed through to the
11 partners or shareholders in accordance with applicable provisions
12 of Part 10 (commencing with Section 17001) or Part 11
13 (commencing with Section 23001). For purposes of this paragraph,
14 “pass-thru entity” means any entity taxed as a partnership or “S”
15 corporation.

16 (20) “Qualified visual effects” means visual effects where at
17 least 75 percent or a minimum of ten million dollars (\$10,000,000)
18 of the qualified expenditures for the visual effects is paid or
19 incurred in California.

20 (21) (A) “Qualified wages” means all of the following:

21 (i) Any wages subject to withholding under Division 6
22 (commencing with Section 13000) of the Unemployment Insurance
23 Code that were paid or incurred by any taxpayer involved in the
24 production of a qualified motion picture with respect to a qualified
25 individual for services performed on the qualified motion picture
26 production within this state.

27 (ii) The portion of any employee fringe benefits paid or incurred
28 by any taxpayer involved in the production of the qualified motion
29 picture that are properly allocable to qualified wage amounts
30 described in clauses (i), (iii), and (iv).

31 (iii) Any payments made to a qualified entity for services
32 performed in this state by qualified individuals within the meaning
33 of paragraph (17).

34 (iv) Remuneration paid to an independent contractor who is a
35 qualified individual for services performed within this state by that
36 qualified individual.

37 (B) “Qualified wages” shall not include any of the following:

38 (i) Expenses, including wages, related to new use, reuse, clip
39 use, licensing, secondary markets, or residual compensation, or

1 the creation of any ancillary product, including, but not limited to,
2 a soundtrack album, toy, game, trailer, or teaser.

3 (ii) Expenses, including wages, paid or incurred with respect to
4 acquisition, development, turnaround, or any rights thereto.

5 (iii) Expenses, including wages, related to financing, overhead,
6 marketing, promotion, or distribution of a qualified motion picture.

7 (iv) Expenses, including wages, paid per person per qualified
8 motion picture for writers, directors, music directors, music
9 composers, music supervisors, producers, and performers, other
10 than background actors with no scripted lines.

11 (22) “Residual compensation” means supplemental
12 compensation paid at the time that a motion picture is exhibited
13 through new use, reuse, clip use, or in secondary markets, as
14 distinguished from payments made during production.

15 (23) “Reuse” means any use of a qualified motion picture in the
16 same medium for which it was created, following the initial use
17 in that medium.

18 (24) “Secondary markets” means media in which a qualified
19 motion picture is exhibited following the initial media in which it
20 is exhibited.

21 (25) “Television series that relocated to California” means a
22 television series, without regard to episode length or initial media
23 exhibition, with a minimum production budget of one million
24 dollars (\$1,000,000) per episode, that filmed its most recent season
25 outside of California or has filmed all seasons outside of California
26 and for which the taxpayer certifies that the credit provided
27 pursuant to this section is the primary reason for relocating to
28 California.

29 (26) “Visual effects” means the creation, alteration, or
30 enhancement of images that cannot be captured on a set or location
31 during live action photography and therefore is accomplished in
32 postproduction. It includes, but is not limited to, matte paintings,
33 animation, set extensions, computer-generated objects, characters
34 and environments, compositing (combining two or more elements
35 in a final image), and wire removals. “Visual effects” does not
36 include fully animated projects, whether created by traditional or
37 digital means.

38 (c) (1) Notwithstanding any other law, a qualified taxpayer
39 may sell any credit allowed under this section that is attributable

1 to an independent film, as defined in paragraph (6) of subdivision
2 (b), to an unrelated party.

3 (2) The qualified taxpayer shall report to the Franchise Tax
4 Board prior to the sale of the credit, in the form and manner
5 specified by the Franchise Tax Board, all required information
6 regarding the purchase and sale of the credit, including the social
7 security or other taxpayer identification number of the unrelated
8 party to whom the credit has been sold, the face amount of the
9 credit sold, and the amount of consideration received by the
10 qualified taxpayer for the sale of the credit.

11 (3) In the case where the credit allowed under this section
12 exceeds the “net tax,” the excess credit may be carried over to
13 reduce the “net tax” in the following taxable year, and succeeding
14 five taxable years, if necessary, until the credit has been exhausted.

15 (4) A credit shall not be sold pursuant to this subdivision to
16 more than one taxpayer, nor may the credit be resold by the
17 unrelated party to another taxpayer or other party.

18 (5) A party that has acquired tax credits under this subdivision
19 shall be subject to the requirements of this section.

20 (6) In no event may a qualified taxpayer assign or sell any tax
21 credit to the extent the tax credit allowed by this section is claimed
22 on any tax return of the qualified taxpayer.

23 (7) In the event that both the taxpayer originally allocated a
24 credit under this section by the California Film Commission and
25 a taxpayer to whom the credit has been sold both claim the same
26 amount of credit on their tax returns, the Franchise Tax Board may
27 disallow the credit of either taxpayer, so long as the statute of
28 limitations upon assessment remains open.

29 (8) Chapter 3.5 (commencing with Section 11340) of Part 1 of
30 Division 3 of Title 2 of the Government Code does not apply to
31 any standard, criterion, procedure, determination, rule, notice, or
32 guideline established or issued by the Franchise Tax Board
33 pursuant to this subdivision.

34 (9) Subdivision (g) of Section 17039 shall not apply to any
35 credit sold pursuant to this subdivision.

36 (10) For purposes of this subdivision, the unrelated party or
37 parties that purchase a credit pursuant to this subdivision shall be
38 treated as a qualified taxpayer pursuant to paragraph (1) of
39 subdivision (a).

1 (d) (1) No credit shall be allowed pursuant to this section unless
2 the qualified taxpayer provides the following to the California
3 Film Commission:

4 (A) Identification of each qualified individual.

5 (B) The specific start and end dates of production.

6 (C) The total wages paid.

7 (D) The total amount of qualified wages paid to qualified
8 individuals.

9 (E) The copyright registration number, as reflected on the
10 certificate of registration issued under the authority of Section 410
11 of Title 17 of the United States Code, relating to registration of
12 claim and issuance of certificate. The registration number shall be
13 provided on the return claiming the credit.

14 (F) The total amounts paid or incurred to purchase or lease
15 tangible personal property used in the production of a qualified
16 motion picture.

17 (G) Information to substantiate its qualified expenditures.

18 (H) Information required by the California Film Commission
19 under regulations promulgated pursuant to subdivision (g)
20 necessary to verify the amount of credit claimed.

21 (I) Provides documentation verifying completion of the Career
22 Readiness requirement.

23 (2) (A) Based on the information provided in paragraph (1),
24 the California Film Commission shall recompute the jobs ratio
25 previously computed in subdivision (g) and compare this
26 recomputed jobs ratio to the jobs ratio that the qualified taxpayer
27 previously listed on the application submitted pursuant to
28 subdivision (g).

29 (B) (i) If the California Film Commission determines that the
30 jobs ratio has been reduced by more than 10 percent for a qualified
31 motion picture other than an independent film, the California Film
32 Commission shall reduce the amount of credit allowed by an equal
33 percentage, unless the qualified taxpayer demonstrates, and the
34 California Film Commission determines, that reasonable cause
35 exists for the jobs ratio reduction.

36 (ii) If the California Film Commission determines that the jobs
37 ratio has been reduced by more than 20 percent for a qualified
38 motion picture other than an independent film, the California Film
39 Commission shall not accept an application described in
40 subdivision (g) from that qualified taxpayer or any member of the

1 qualified taxpayer's controlled group for a period of not less than
2 one year from the date of that determination, unless the qualified
3 taxpayer demonstrates, and the California Film Commission
4 determines, that reasonable cause exists for the jobs ratio reduction.

5 (C) If the California Film Commission determines that the jobs
6 ratio has been reduced by more than 30 percent for an independent
7 film, the California Film Commission shall reduce the amount of
8 credit allowed by an equal percentage, plus 10 percent of the
9 amount of credit that would otherwise have been allowed, unless
10 the qualified taxpayer demonstrates, and the California Film
11 Commission determines, that reasonable cause exists for the jobs
12 ratio reduction.

13 (D) For the purposes of this paragraph, "reasonable cause"
14 means unforeseen circumstances beyond the control of the qualified
15 taxpayer, such as, but not limited to, the cancellation of a television
16 series prior to the completion of the scheduled number of episodes
17 or other similar circumstances as determined by the California
18 Film Commission in regulations to be adopted pursuant to
19 subdivision (e).

20 (e) (1) (A) Subject to the Administrative Procedure Act
21 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
22 Division 3 of Title 2 of the Government Code), the California Film
23 Commission shall adopt rules and regulations to implement a
24 Career Readiness requirement by which the California Film
25 Commission shall identify training and public service opportunities
26 that may include, but not be limited to, hiring interns, public service
27 announcements, and community outreach and may prescribe rules
28 and regulations to carry out the purposes of this section, including,
29 subparagraph (D) of paragraph (4) of subdivision (a) and clause
30 (iv) of subparagraph (D) of paragraph (2) of subdivision (g), and
31 including any rules and regulations necessary to establish
32 procedures, processes, requirements, application fee structure, and
33 rules identified in or required to implement this section, including
34 credit and logo requirements and credit allocation procedures over
35 multiple fiscal years where the qualified taxpayer is producing a
36 series of features that will be filmed concurrently.

37 (B) Notwithstanding any other law, prior to preparing a notice
38 of proposed action pursuant to Section 11346.4 of the Government
39 Code and prior to making any revision to the proposed regulation
40 other than a change that is nonsubstantial or solely grammatical

1 in nature, the Governor's Office of Business and Economic
2 Development shall first approve the proposed regulation or
3 proposed change to a proposed regulation regarding allocating the
4 credit pursuant to subdivision (i), computing the jobs ratio as
5 described in subdivisions (d) and (g), and defining "reasonable
6 cause" pursuant to subparagraph (E) of paragraph (2) of subdivision
7 (d).

8 (2) (A) Implementation of this section for the 2015–16 fiscal
9 year is deemed an emergency and necessary for the immediate
10 preservation of the public peace, health, and safety, or general
11 welfare and, therefore, the California Film Commission is hereby
12 authorized to adopt emergency regulations to implement this
13 section during the 2015–16 fiscal year in accordance with the
14 rulemaking provisions of the Administrative Procedure Act
15 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
16 Division 3 of Title 2 of the Government Code).

17 (B) Nothing in this paragraph shall be construed to require the
18 Governor's Office of Business and Economic Development to
19 approve emergency regulations adopted pursuant to this paragraph.

20 (3) The California Film Commission shall not be required to
21 prepare an economic impact analysis pursuant to the Administrative
22 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
23 Part 1 of Division 3 of Title 2 of the Government Code) with regard
24 to any rules and regulations adopted pursuant to this subdivision.

25 (f) If the qualified taxpayer fails to provide the copyright
26 registration number as required in subparagraph (E) of paragraph
27 (1) of subdivision (d), the credit shall be disallowed and assessed
28 and collected under Section 19051 until the procedures are
29 satisfied.

30 (g) For purposes of this section, the California Film Commission
31 shall do the following:

32 (1) Subject to the requirements of subparagraphs (A) through
33 (E), inclusive, of paragraph (2), on or after July 1, 2015, and before
34 July 1, 2016, in one or more allocation periods per fiscal year,
35 allocate tax credits to applicants.

36 (2) On or after July 1, 2016, and before July 1, 2020, in two or
37 more allocation periods per fiscal year, allocate tax credits to
38 applicants.

39 (A) Establish a procedure for applicants to file with the
40 California Film Commission a written application, on a form jointly

1 prescribed by the California Film Commission and the Franchise
2 Tax Board for the allocation of the tax credit. The application shall
3 include, but not be limited to, the following information:

4 (i) The budget for the motion picture production.

5 (ii) The number of production days.

6 (iii) A financing plan for the production.

7 (iv) The diversity of the workforce employed by the applicant,
8 including, but not limited to, the ethnic and racial makeup of the
9 individuals employed by the applicant during the production of
10 the qualified motion picture, to the extent possible.

11 (v) All members of a combined reporting group, if known at
12 the time of the application.

13 (vi) Financial information, if available, including, but not limited
14 to, the most recently produced balance sheets, annual statements
15 of profits and losses, audited or unaudited financial statements,
16 summary budget projections or results, or the functional equivalent
17 of these documents of a partnership or owner of a single member
18 limited liability company that is disregarded pursuant to Section
19 23038. The information provided pursuant to this clause shall be
20 confidential and shall not be subject to public disclosure.

21 (vii) The names of all partners in a partnership not publicly
22 traded or the names of all members of a limited liability company
23 classified as a partnership not publicly traded for California income
24 tax purposes that have a financial interest in the applicant's
25 qualified motion picture. The information provided pursuant to
26 this clause shall be confidential and shall not be subject to public
27 disclosure.

28 (viii) The amount of qualified wages the applicant expects to
29 pay to qualified individuals.

30 (ix) The amount of tax credit the applicant computes the
31 qualified motion picture will receive, applying the applicable credit
32 percentages described in paragraph (4) of subdivision (a).

33 (x) A statement establishing that the tax credit described in this
34 section is a significant factor in the applicant's choice of location
35 for the qualified motion picture. The statement shall include
36 information about whether the qualified motion picture is at risk
37 of not being filmed or specify the jurisdiction or jurisdictions in
38 which the qualified motion picture will be located in the absence
39 of the tax credit. The statement shall be signed by an officer or
40 executive of the applicant.

1 (xi) Any other information deemed relevant by the California
2 Film Commission or the Franchise Tax Board.

3 (B) Establish criteria, consistent with the requirements of this
4 section, for allocating tax credits.

5 (C) Determine and designate applicants who meet the
6 requirements of this section.

7 (D) (i) For purposes of allocating the credit amounts subject to
8 the categories described in subdivision (i) in any fiscal year, the
9 California Film Commission shall do all of the following:

10 (ii) For each allocation date and for each category, list each
11 applicant from highest to lowest according to the jobs ratio as
12 computed by the California Film Commission.

13 (iii) Subject to the applicable credit percentage, allocate the
14 credit to each applicant according to the highest jobs ratio, working
15 down the list, until the credit amount is exhausted.

16 (iv) Pursuant to regulations adopted pursuant to subdivision (e),
17 the California Film Commission may increase the jobs ratio by up
18 to 25 percent if a qualified motion picture increases economic
19 activity in California according to criteria developed by the
20 California Film Commission that would include, but not be limited
21 to, such factors as, the amount of the production and postproduction
22 spending in California, the utilization of production facilities in
23 California, and other criteria measuring economic impact in
24 California as determined by the Film Commission.

25 (v) Notwithstanding any other provision, any television series,
26 relocating television series, or any new television series based on
27 a pilot for a new television series that has been approved and issued
28 a credit allocation by the California Film Commission under this
29 section, Section 23695, 17053.85, or 23685 shall be issued a credit
30 for each subsequent year, for the life of that television series
31 whenever credits are allocated within a fiscal year.

32 (E) Subject to the annual cap and the allocation credit amounts
33 based on categories described in subdivision (i), allocate an
34 aggregate amount of credits under this section and Section 23695,
35 and allocate any carryover of unallocated credits from prior years
36 and the amount of any credits reduced pursuant to paragraph (2)
37 of subdivision (d).

38 (3) Certify tax credits allocated to qualified taxpayers.

39 (A) Establish a verification procedure for the amount of qualified
40 expenditures paid or incurred by the applicant, including, but not

1 limited to, updates to the information in subparagraph (A) of
2 paragraph (2) of subdivision (g).

3 (B) Establish audit requirements that must be satisfied before
4 a credit certificate may be issued by the California Film
5 Commission.

6 (C) (i) Establish a procedure for a qualified taxpayer to report
7 to the California Film Commission, prior to the issuance of a credit
8 certificate, the following information:

9 (I) If readily available, a list of the states, provinces, or other
10 jurisdictions in which any member of the applicant's combined
11 reporting group in the same business unit as the qualified taxpayer
12 that, in the preceding calendar year, has produced a qualified
13 motion picture intended for release in the United States market.
14 For purposes of this clause, "qualified motion picture" shall not
15 include any episodes of a television series that were complete or
16 in production prior to July 1, 2016.

17 (II) Whether a qualified motion picture described in subclause
18 (I) was awarded any financial incentive by the state, province, or
19 other jurisdiction that was predicated on the performance of
20 primary principal photography or postproduction in that location.

21 (ii) The California Film Commission may provide that the report
22 required by this subparagraph be filed in a single report provided
23 on a calendar year basis for those qualified taxpayers that receive
24 multiple credit certificates in a calendar year.

25 (D) Issue a credit certificate to a qualified taxpayer upon
26 completion of the qualified motion picture reflecting the credit
27 amount allocated after qualified expenditures have been verified
28 and the jobs ratio computed under this section. The amount of
29 credit shown in the credit certificate shall not exceed the amount
30 of credit allocated to that qualified taxpayer pursuant to this section.

31 (4) Obtain, when possible, the following information from
32 applicants that do not receive an allocation of credit:

33 (A) Whether the qualified motion picture that was the subject
34 of the application was completed.

35 (B) If completed, in which state or foreign jurisdiction was the
36 primary principal photography completed.

37 (C) Whether the applicant received any financial incentives
38 from the state or foreign jurisdiction to make the qualified motion
39 picture in that location.

1 (5) Provide the Legislative Analyst's Office, upon request, any
2 or all application materials or any other materials received from,
3 or submitted by, the applicants, in electronic format when available,
4 including, but not limited to, information provided pursuant to
5 clauses (i) to (xi) inclusive, of subparagraph (A) of paragraph (2).

6 (6) The information provided to the California Film Commission
7 pursuant to this section shall constitute confidential tax information
8 for purposes of Article 2 (commencing with Section 19542) of
9 Chapter 7 of Part 10.2.

10 (h) (1) The California Film Commission shall annually provide
11 the Legislative Analyst's Office, the Franchise Tax Board, and the
12 board with a list of qualified taxpayers and the tax credit amounts
13 allocated to each qualified taxpayer by the California Film
14 Commission. The list shall include the names and taxpayer
15 identification numbers, including taxpayer identification numbers
16 of each partner or shareholder, as applicable, of the qualified
17 taxpayer.

18 (2) (A) Notwithstanding paragraph (6) of subdivision (g), the
19 California Film Commission shall annually post on its Internet
20 Web site and make available for public release the following:

21 (i) A table which includes all of the following information: a
22 list of qualified taxpayers and the tax credit amounts allocated to
23 each qualified taxpayer by the California Film Commission, the
24 number of production days in California the qualified taxpayer
25 represented in its application would occur, the number of California
26 jobs that the qualified taxpayer represented in its application would
27 be directly created by the production, and the total amount of
28 qualified expenditures expected to be spent by the production.

29 (ii) A narrative staff summary describing the production of the
30 qualified taxpayer as well as background information regarding
31 the qualified taxpayer contained in the qualified taxpayer's
32 application for the credit.

33 (B) Nothing in this subdivision shall be construed to make the
34 information submitted by an applicant for a tax credit under this
35 section a public record.

36 (3) The California Film Commission shall provide each city
37 and county in California with an instructional guide that includes,
38 but is not limited to, a review of best practices for facilitating
39 motion picture production in local jurisdictions, resources on
40 hosting and encouraging motion picture production, and the

1 California Film Commissions' Model Film Ordinance. The
2 California Film Commission shall maintain on its Internet Web
3 site a list of initiatives by locality that encourage motion picture
4 production in regions across the state. The list shall be distributed
5 to each approved applicant for the program to highlight local
6 jurisdictions that offer incentives to facilitate film production.

7 (i) (1) (A) The aggregate amount of credits that may be
8 allocated for a fiscal year pursuant to this section and Section
9 23695 is the applicable amount described in the following, plus
10 any amount described in subparagraph (B), (C), or (D):

11 (i) Two hundred thirty million dollars (\$230,000,000) in credits
12 for the 2015–16 fiscal year.

13 (ii) Three hundred thirty million dollars (\$330,000,000) in
14 credits for the 2016–17 fiscal year and each fiscal year thereafter,
15 through and including the 2019–20 fiscal year.

16 (B) The unused allocation credit amount, if any, for the
17 preceding fiscal year.

18 (C) The amount of previously allocated credits not certified.

19 (D) The amount of any credits reduced pursuant to paragraph
20 (2) of subdivision (d).

21 (2) (A) Notwithstanding the foregoing, the California Film
22 Commission shall allocate the credit amounts subject to the
23 following categories:

24 (i) Independent films shall be allocated 5 percent of the amount
25 specified in paragraph (1).

26 (ii) Features shall be allocated 35 percent of the amount specified
27 in paragraph (1).

28 (iii) A relocating television series shall be allocated 20 percent
29 of the amount specified in paragraph (1).

30 (iv) A new television series, pilots for a new television series,
31 movies of the week, miniseries, and recurring television series
32 shall be allocated 40 percent of the amount specified in paragraph
33 (1).

34 (B) Within 60 days after the allocation period, any unused
35 amount within a category or categories shall be first reallocated
36 to the category described in clause (iv) of subparagraph (A) and,
37 if any unused amount remains, reallocated to another category or
38 categories with a higher demand as determined by the California
39 Film Commission.

1 (C) Notwithstanding the foregoing, the California Film
2 Commission may increase or decrease an allocation amount in
3 subparagraph (A) by 5 percent, if necessary, due to the jobs ratio,
4 the number of applications, or the allocation credit amounts
5 available by category compared to demand.

6 (D) With respect to a relocating television series issued a credit
7 in a subsequent year pursuant to clause (v) of subparagraph (D)
8 of paragraph (2) of subdivision (g), that subsequent credit amount
9 shall be allowed from the allocation amount described in clause
10 (iv) of subparagraph (A).

11 (3) Any act that reduces the amount that may be allocated
12 pursuant to paragraph (1) constitutes a change in state taxes for
13 the purpose of increasing revenues within the meaning of Section
14 3 of Article XIII A of the California Constitution and may be passed
15 by not less than two-thirds of all Members elected to each of the
16 two houses of the Legislature.

17 (j) The California Film Commission shall have the authority to
18 allocate tax credits in accordance with this section and in
19 accordance with any regulations prescribed pursuant to subdivision
20 (e) upon adoption.

21 SEC. 2. Section 23695 of the Revenue and Taxation Code is
22 amended to read:

23 23695. (a) (1) For taxable years beginning on or after January
24 1, 2016, there shall be allowed to a qualified taxpayer a credit
25 against the “tax,” as defined in Section 23036, subject to a
26 computation and ranking by the California Film Commission in
27 subdivision (g) and the allocation amount categories described in
28 subdivision (i), in an amount equal to 20 percent or 25 percent,
29 whichever is the applicable credit percentage described in
30 paragraph (4), of the qualified expenditures for the production of
31 a qualified motion picture in California. A credit shall not be
32 allowed under this section for any qualified expenditures for the
33 production of a motion picture in California if a credit has been
34 claimed for those same expenditures under Section 23685.

35 (2) Except as otherwise provided in this section, the credit shall
36 be allowed for the taxable year in which the California Film
37 Commission issues the credit certificate pursuant to subdivision
38 (g) for the qualified motion picture, but in no instance prior to July
39 1, 2016, and shall be for the applicable percentage of all qualified

1 expenditures paid or incurred by the qualified taxpayer in all
2 taxable years for that qualified motion picture.

3 (3) The amount of the credit allowed to a qualified taxpayer
4 shall be limited to the amount specified in the credit certificate
5 issued to the qualified taxpayer by the California Film Commission
6 pursuant to subdivision (g).

7 (4) For purposes of paragraphs (1) and (2), the applicable credit
8 percentage shall be:

9 (A) Twenty percent of the qualified expenditures attributable
10 to the production of a qualified motion picture in California,
11 including, but not limited to, a feature, up to one hundred million
12 dollars (\$100,000,000) in qualified expenditures, or a television
13 series that relocated to California that is in its second or subsequent
14 years of receiving a tax credit allocation pursuant to this section
15 or Section 23685.

16 (B) Twenty-five percent of the qualified expenditures
17 attributable to the production of a qualified motion picture in
18 California where the qualified motion picture is a television series
19 that relocated to California in its first year of receiving a tax credit
20 allocation pursuant to this section.

21 (C) Twenty-five percent of the qualified expenditures, up to ten
22 million dollars (\$10,000,000), attributable to the production of a
23 qualified motion picture that is an independent film.

24 (D) Additional credits shall be allowed to a qualified motion
25 picture whose applicable credit percentage is determined pursuant
26 to subparagraph (A), in an aggregate amount not to exceed 5
27 percent of the qualified expenditures under that subparagraph, as
28 follows:

29 (i) (I) Five percent of qualified expenditures relating to original
30 photography outside the Los Angeles zone.

31 (II) For purposes of this clause:

32 (ia) “Applicable period” means the period that commences with
33 preproduction and ends when original photography concludes. The
34 applicable period includes the time necessary to strike a remote
35 location and return to the Los Angeles zone.

36 (ib) “Los Angeles zone” means the area within a circle 30 miles
37 in radius from Beverly Boulevard and La Cienega Boulevard, Los
38 Angeles, California, and includes Agua Dulce, Castaic, including
39 Lake Castaic, Leo Carillo State Beach, Ontario International
40 Airport, Piru, and Pomona, including the Los Angeles County

1 Fairgrounds. The Metro Goldwyn Mayer, Inc. Conejo Ranch
2 property is within the Los Angeles zone.

3 (ic) “Original photography” includes principal photography and
4 reshooting original footage.

5 (id) “Qualified expenditures relating to original photography
6 outside the Los Angeles zone” means amounts paid or incurred
7 during the applicable period for tangible personal property
8 purchased or leased and used or consumed outside the Los Angeles
9 zone and relating to original photography outside the Los Angeles
10 zone and qualified wages paid for services performed outside the
11 Los Angeles zone and relating to original photography outside the
12 Los Angeles zone.

13 (ii) Five percent of the qualified expenditures relating to
14 *qualified music preparation*, music ~~scoring~~ and *scoring*, music
15 track recording, and *music editing* by musicians attributable to the
16 production of a qualified motion picture in California.

17 (iii) Five percent of the qualified expenditures relating to
18 qualified visual effects attributable to the production of a qualified
19 motion picture in California.

20 (b) For purposes of this section:

21 (1) “Ancillary product” means any article for sale to the public
22 that contains a portion of, or any element of, the qualified motion
23 picture.

24 (2) “Budget” means an estimate of all expenses paid or incurred
25 during the production period of a qualified motion picture. It shall
26 be the same budget used by the qualified taxpayer and production
27 company for all qualified motion picture purposes.

28 (3) “Clip use” means a use of any portion of a motion picture,
29 other than the qualified motion picture, used in the qualified motion
30 picture.

31 (4) “Credit certificate” means the certificate issued by the
32 California Film Commission pursuant to subparagraph (C) of
33 paragraph (3) of subdivision (g).

34 (5) (A) “Employee fringe benefits” means the amount allowable
35 as a deduction under this part to the qualified taxpayer involved
36 in the production of the qualified motion picture, exclusive of any
37 amounts contributed by employees, for any year during the
38 production period with respect to any of the following:

39 (i) Employer contributions under any pension, profit-sharing,
40 annuity, or similar plan.

1 (ii) Employer-provided coverage under any accident or health
2 plan for employees.

3 (iii) The employer's cost of life or disability insurance provided
4 to employees.

5 (B) Any amount treated as wages under clause (i) of
6 subparagraph (A) of paragraph (21) shall not be taken into account
7 under this paragraph.

8 (6) "Independent film" means a motion picture with a minimum
9 budget of one million dollars (\$1,000,000) that is produced by a
10 company that is not publicly traded and publicly traded companies
11 do not own, directly or indirectly, more than 25 percent of the
12 producing company.

13 (7) "Jobs ratio" means the amount of qualified wages paid to
14 qualified individuals divided by the amount of tax credit, not
15 including any additional credit allowed pursuant to subparagraph
16 (D) of paragraph (4) of subdivision (a), as computed by the
17 California Film Commission.

18 (8) "Licensing" means any grant of rights to distribute the
19 qualified motion picture, in whole or in part.

20 (9) "New use" means any use of a motion picture in a medium
21 other than the medium for which it was initially created.

22 (10) "Pilot for a new television series" means the initial episode
23 produced for a proposed television series.

24 (11) (A) "Postproduction" means the final activities in a
25 qualified motion picture's production, including editing, foley
26 recording, automatic dialogue replacement, sound editing, scoring,
27 music track recording by musicians and music editing, beginning
28 and end credits, negative cutting, negative processing and
29 duplication, the addition of sound and visual effects, sound mixing,
30 film-to-tape transfers, encoding, and color correction.

31 (B) "Postproduction" does not include the manufacture or
32 shipping of release prints or their equivalent.

33 (12) "Preproduction" means the process of preparation for actual
34 physical production which begins after a qualified motion picture
35 has received a firm agreement of financial commitment, or is
36 greenlit, with, for example, the establishment of a dedicated
37 production office, the hiring of key crew members, and includes,
38 but is not limited to, activities that include location scouting and
39 execution of contracts with vendors of equipment and stage space.

1 (13) “Principal photography” means the phase of production
2 during which the motion picture is actually shot, as distinguished
3 from preproduction and postproduction.

4 (14) “Production period” means the period beginning with
5 preproduction and ending upon completion of postproduction.

6 (15) “Qualified entity” means a personal service corporation as
7 defined in Section 269A(b)(1) of the Internal Revenue Code, a
8 payroll services corporation, or any entity receiving qualified wages
9 with respect to services performed by a qualified individual.

10 (16) “Qualified expenditures” means amounts paid or incurred
11 for tangible personal property purchased or leased, and used, within
12 this state in the production of a qualified motion picture and
13 payments, including qualified wages, for services performed within
14 this state in the production of a qualified motion picture.

15 (17) (A) “Qualified individual” means any individual who
16 performs services during the production period in an activity related
17 to the production of a qualified motion picture.

18 (B) “Qualified individual” shall not include either of the
19 following:

20 (i) Any individual related to the qualified taxpayer as described
21 in subparagraph (A), (B), or (C) of Section 51(i)(1) of the Internal
22 Revenue Code.

23 (ii) Any 5-percent owner, as defined in Section 416(i)(1)(B) of
24 the Internal Revenue Code, of the qualified taxpayer.

25 (18) (A) “Qualified motion picture” means a motion picture
26 that is produced for distribution to the general public, regardless
27 of medium, that is one of the following:

28 (i) A feature with a minimum production budget of one million
29 dollars (\$1,000,000).

30 (ii) A movie of the week or miniseries with a minimum
31 production budget of five hundred thousand dollars (\$500,000).

32 (iii) A new television series of episodes longer than 40 minutes
33 each of running time, exclusive of commercials, that is produced
34 in California, with a minimum production budget of one million
35 dollars (\$1,000,000) per episode.

36 (iv) An independent film.

37 (v) A television series that relocated to California.

38 (vi) A pilot for a new television series that is longer than 40
39 minutes of running time, exclusive of commercials, that is produced

1 in California, and with a minimum production budget of one
2 million dollars (\$1,000,000).

3 (B) To qualify as a “qualified motion picture,” all of the
4 following conditions shall be satisfied:

5 (i) At least 75 percent of the principal photography days occur
6 wholly in California or 75 percent of the production budget is
7 incurred for payment for services performed within the state and
8 the purchase or rental of property used within the state.

9 (ii) Production of the qualified motion picture is completed
10 within 30 months from the date on which the qualified taxpayer’s
11 application is approved by the California Film Commission. For
12 purposes of this section, a qualified motion picture is “completed”
13 when the process of postproduction has been finished.

14 (iii) The copyright for the motion picture is registered with the
15 United States Copyright Office pursuant to Title 17 of the United
16 States Code.

17 (iv) Principal photography of the qualified motion picture
18 commences after the date on which the application is approved by
19 the California Film Commission, but no later than 180 days after
20 the date of that approval unless death, disability, or disfigurement
21 of the director or of a principal cast member, an act of God,
22 including, but not limited to, fire, flood, earthquake, storm,
23 hurricane, or other natural disaster, terrorist activities, or
24 government sanction has directly prevented a production’s ability
25 to begin principal photography within the prescribed 180-day
26 commencement period.

27 (C) For the purposes of subparagraph (A), in computing the
28 total wages paid or incurred for the production of a qualified
29 motion picture, all amounts paid or incurred by all persons or
30 entities that share in the costs of the qualified motion picture shall
31 be aggregated.

32 (D) “Qualified motion picture” shall not include commercial
33 advertising, music videos, a motion picture produced for private
34 noncommercial use, such as weddings, graduations, or as part of
35 an educational course and made by students, a news program,
36 current events or public events program, talk show, game show,
37 sporting event or activity, awards show, telethon or other
38 production that solicits funds, reality television program, clip-based
39 programming if more than 50 percent of the content is comprised
40 of licensed footage, documentaries, variety programs, daytime

1 dramas, strip shows, one-half hour (air time) episodic television
2 shows, or any production that falls within the recordkeeping
3 requirements of Section 2257 of Title 18 of the United States Code.

4 (18.5) “*Qualified music preparation, music scoring, music track*
5 *recording, and music editing*” means music preparation, music
6 scoring, music track recording, and music editing where at least
7 75 percent or a minimum of one hundred thousand dollars
8 (\$100,000) of the total expenditures for the music preparation,
9 music scoring, music track recording, and music editing is paid
10 or incurred in California.

11 (19) (A) “Qualified taxpayer” means a taxpayer who has paid
12 or incurred qualified expenditures, participated in the Career
13 Readiness requirement, and has been issued a credit certificate by
14 the California Film Commission pursuant to subdivision (g).

15 (B) (i) In the case of any pass-thru entity, the determination of
16 whether a taxpayer is a qualified taxpayer under this section shall
17 be made at the entity level and any credit under this section is not
18 allowed to the pass-thru entity, but shall be passed through to the
19 partners or shareholders in accordance with applicable provisions
20 of Part 10 (commencing with Section 17001) or Part 11
21 (commencing with Section 23001). For purposes of this paragraph,
22 “pass-thru entity” means any entity taxed as a partnership or “S”
23 corporation.

24 (ii) In the case of an “S” corporation, the credit allowed under
25 this section shall not be used by an “S” corporation as a credit
26 against a tax imposed under Chapter 4.5 (commencing with Section
27 23800) of Part 11 of Division 2.

28 (20) “Qualified visual effects” means visual effects where at
29 least 75 percent or a minimum of ten million dollars (\$10,000,000)
30 of the qualified expenditures for the visual effects is paid or
31 incurred in California.

32 (21) (A) “Qualified wages” means all of the following:

33 (i) Any wages subject to withholding under Division 6
34 (commencing with Section 13000) of the Unemployment Insurance
35 Code that were paid or incurred by any taxpayer involved in the
36 production of a qualified motion picture with respect to a qualified
37 individual for services performed on the qualified motion picture
38 production within this state.

39 (ii) The portion of any employee fringe benefits paid or incurred
40 by any taxpayer involved in the production of the qualified motion

1 picture that are properly allocable to qualified wage amounts
2 described in clauses (i), (iii), and (iv).

3 (iii) Any payments made to a qualified entity for services
4 performed in this state by qualified individuals within the meaning
5 of paragraph (17).

6 (iv) Remuneration paid to an independent contractor who is a
7 qualified individual for services performed within this state by that
8 qualified individual.

9 (B) “Qualified wages” shall not include any of the following:

10 (i) Expenses, including wages, related to new use, reuse, clip
11 use, licensing, secondary markets, or residual compensation, or
12 the creation of any ancillary product, including, but not limited to,
13 a soundtrack album, toy, game, trailer, or teaser.

14 (ii) Expenses, including wages, paid or incurred with respect to
15 acquisition, development, turnaround, or any rights thereto.

16 (iii) Expenses, including wages, related to financing, overhead,
17 marketing, promotion, or distribution of a qualified motion picture.

18 (iv) Expenses, including wages, paid per person per qualified
19 motion picture for writers, directors, music directors, music
20 composers, music supervisors, producers, and performers, other
21 than background actors with no scripted lines.

22 (22) “Residual compensation” means supplemental
23 compensation paid at the time that a motion picture is exhibited
24 through new use, reuse, clip use, or in secondary markets, as
25 distinguished from payments made during production.

26 (23) “Reuse” means any use of a qualified motion picture in the
27 same medium for which it was created, following the initial use
28 in that medium.

29 (24) “Secondary markets” means media in which a qualified
30 motion picture is exhibited following the initial media in which it
31 is exhibited.

32 (25) “Television series that relocated to California” means a
33 television series, without regard to episode length or initial media
34 exhibition, with a minimum production budget of one million
35 dollars (\$1,000,000) per episode, that filmed its most recent season
36 outside of California or has filmed all seasons outside of California
37 and for which the taxpayer certifies that the credit provided
38 pursuant to this section is the primary reason for relocating to
39 California.

1 (26) “Visual effects” means the creation, alteration, or
2 enhancement of images that cannot be captured on a set or location
3 during live action photography and therefore is accomplished in
4 postproduction. It includes, but is not limited to, matte paintings,
5 animation, set extensions, computer-generated objects, characters
6 and environments, compositing (combining two or more elements
7 in a final image), and wire removals. “Visual effects” does not
8 include fully animated projects, whether created by traditional or
9 digital means.

10 (c) (1) Notwithstanding subdivision (i) of Section 23036, in
11 the case where the credit allowed by this section exceeds the
12 taxpayer’s tax liability computed under this part, a qualified
13 taxpayer may elect to assign any portion of the credit allowed
14 under this section to one or more affiliated corporations for each
15 taxable year in which the credit is allowed. For purposes of this
16 subdivision, “affiliated corporation” has the meaning provided in
17 subdivision (b) of Section 25110, as that section was amended by
18 Chapter 881 of the Statutes of 1993, as of the last day of the taxable
19 year in which the credit is allowed, except that “100 percent” is
20 substituted for “more than 50 percent” wherever it appears in the
21 section, and “voting common stock” is substituted for “voting
22 stock” wherever it appears in the section.

23 (2) The election provided in paragraph (1):

24 (A) May be based on any method selected by the qualified
25 taxpayer that originally receives the credit.

26 (B) Shall be irrevocable for the taxable year the credit is allowed,
27 once made.

28 (C) May be changed for any subsequent taxable year if the
29 election to make the assignment is expressly shown on each of the
30 returns of the qualified taxpayer and the qualified taxpayer’s
31 affiliated corporations that assign and receive the credits.

32 (D) Shall be reported to the Franchise Tax Board, in the form
33 and manner specified by the Franchise Tax Board, along with all
34 required information regarding the assignment of the credit,
35 including the corporation number, the federal employer
36 identification number, or other taxpayer identification number of
37 the assignee, and the amount of the credit assigned.

38 (3) (A) Notwithstanding any other law, a qualified taxpayer
39 may sell any credit allowed under this section that is attributable

1 to an independent film, as defined in paragraph (6) of subdivision
2 (b), to an unrelated party.

3 (B) The qualified taxpayer shall report to the Franchise Tax
4 Board prior to the sale of the credit, in the form and manner
5 specified by the Franchise Tax Board, all required information
6 regarding the purchase and sale of the credit, including the social
7 security or other taxpayer identification number of the unrelated
8 party to whom the credit has been sold, the face amount of the
9 credit sold, and the amount of consideration received by the
10 qualified taxpayer for the sale of the credit.

11 (4) In the case where the credit allowed under this section
12 exceeds the “tax,” the excess credit may be carried over to reduce
13 the “tax” in the following taxable year, and succeeding five taxable
14 years, if necessary, until the credit has been exhausted.

15 (5) A credit shall not be sold pursuant to this subdivision to
16 more than one taxpayer, nor may the credit be resold by the
17 unrelated party to another taxpayer or other party.

18 (6) A party that has been assigned or acquired tax credits under
19 this subdivision shall be subject to the requirements of this section.

20 (7) In no event may a qualified taxpayer assign or sell any tax
21 credit to the extent the tax credit allowed by this section is claimed
22 on any tax return of the qualified taxpayer.

23 (8) In the event that both the taxpayer originally allocated a
24 credit under this section by the California Film Commission and
25 a taxpayer to whom the credit has been sold both claim the same
26 amount of credit on their tax returns, the Franchise Tax Board may
27 disallow the credit of either taxpayer, so long as the statute of
28 limitations upon assessment remains open.

29 (9) Chapter 3.5 (commencing with Section 11340) of Part 1 of
30 Division 3 of Title 2 of the Government Code does not apply to
31 any standard, criterion, procedure, determination, rule, notice, or
32 guideline established or issued by the Franchise Tax Board
33 pursuant to this subdivision.

34 (10) Subdivision (i) of Section 23036 shall not apply to any
35 credit sold pursuant to this subdivision.

36 (11) For purposes of this subdivision:

37 (A) An affiliated corporation or corporations that are assigned
38 a credit pursuant to paragraph (1) shall be treated as a qualified
39 taxpayer pursuant to paragraph (1) of subdivision (a).

1 (B) The unrelated party or parties that purchase a credit pursuant
2 to paragraphs (3) to (10), inclusive, shall be treated as a qualified
3 taxpayer pursuant to paragraph (1) of subdivision (a).

4 (d) (1) No credit shall be allowed pursuant to this section unless
5 the qualified taxpayer provides the following to the California
6 Film Commission:

7 (A) Identification of each qualified individual.

8 (B) The specific start and end dates of production.

9 (C) The total wages paid.

10 (D) The total amount of qualified wages paid to qualified
11 individuals.

12 (E) The copyright registration number, as reflected on the
13 certificate of registration issued under the authority of Section 410
14 of Title 17 of the United States Code, relating to registration of
15 claim and issuance of certificate. The registration number shall be
16 provided on the return claiming the credit.

17 (F) The total amounts paid or incurred to purchase or lease
18 tangible personal property used in the production of a qualified
19 motion picture.

20 (G) Information to substantiate its qualified expenditures.

21 (H) Information required by the California Film Commission
22 under regulations promulgated pursuant to subdivision (g)
23 necessary to verify the amount of credit claimed.

24 (I) Provides documentation verifying completion of the Career
25 Readiness requirement.

26 (2) (A) Based on the information provided in paragraph (1),
27 the California Film Commission shall recompute the jobs ratio
28 previously computed in subdivision (g) and compare this
29 recomputed jobs ratio to the jobs ratio that the qualified taxpayer
30 previously listed on the application submitted pursuant to
31 subdivision (g).

32 (B) (i) If the California Film Commission determines that the
33 jobs ratio has been reduced by more than 10 percent for a qualified
34 motion picture other than an independent film, the California Film
35 Commission shall reduce the amount of credit allowed by an equal
36 percentage, unless the qualified taxpayer demonstrates, and the
37 California Film Commission determines, that reasonable cause
38 exists for the jobs ratio reduction.

39 (ii) If the California Film Commission determines that the jobs
40 ratio has been reduced by more than 20 percent for a qualified

1 motion picture other than an independent film, the California Film
2 Commission shall not accept an application described in
3 subdivision (g) from that qualified taxpayer or any member of the
4 qualified taxpayer's controlled group for a period of not less than
5 one year from the date of that determination, unless the qualified
6 taxpayer demonstrates, and the California Film Commission
7 determines, that reasonable cause exists for the jobs ratio reduction.

8 (C) If the California Film Commission determines that the jobs
9 ratio has been reduced by more than 30 percent for an independent
10 film, the California Film Commission shall reduce the amount of
11 credit allowed by an equal percentage, plus 10 percent of the
12 amount of credit that would otherwise have been allowed, unless
13 the qualified taxpayer demonstrates, and the California Film
14 Commission determines, that reasonable cause exists for the jobs
15 ratio reduction.

16 (D) For the purposes of this paragraph, "reasonable cause"
17 means unforeseen circumstances beyond the control of the qualified
18 taxpayer, such as, but not limited to, the cancellation of a television
19 series prior to the completion of the scheduled number of episodes
20 or other similar circumstances as determined by the California
21 Film Commission in regulations to be adopted pursuant to
22 subdivision (e).

23 (e) (1) (A) Subject to the Administrative Procedure Act
24 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
25 Division 3 of Title 2 of the Government Code), the California Film
26 Commission shall adopt rules and regulations to implement a
27 Career Readiness requirement by which the California Film
28 Commission shall identify training and public service opportunities
29 that may include, but not be limited to, hiring interns, public service
30 announcements, and community outreach and may prescribe rules
31 and regulations to carry out the purposes of this section, including,
32 subparagraph (D) of paragraph (4) of subdivision (a) and clause
33 (iv) of subparagraph (D) of paragraph (2) of subdivision (g), and
34 including any rules and regulations necessary to establish
35 procedures, processes, requirements, application fee structure, and
36 rules identified in or required to implement this section, including
37 credit and logo requirements and credit allocation procedures over
38 multiple fiscal years where the qualified taxpayer is producing a
39 series of features that will be filmed concurrently.

(B) Notwithstanding any other law, prior to preparing a notice of proposed action pursuant to Section 11346.4 of the Government Code and prior to making any revision to the proposed regulation other than a change that is nonsubstantial or solely grammatical in nature, the Governor's Office of Business and Economic Development shall first approve the proposed regulation or proposed change to a proposed regulation regarding allocating the credit pursuant to subdivision (i), computing the jobs ratio as described in subdivisions (d) and (g), and defining "reasonable cause" pursuant to subparagraph (E) of paragraph (2) of subdivision (d).

(2) (A) Implementation of this section for the 2015–16 fiscal year is deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare and, therefore, the California Film Commission is hereby authorized to adopt emergency regulations to implement this section during the 2015–16 fiscal year in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(B) Nothing in this paragraph shall be construed to require the Governor's Office of Business and Economic Development to approve emergency regulations adopted pursuant to this paragraph.

(3) The California Film Commission shall not be required to prepare an economic impact analysis pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) with regard to any rules and regulations adopted pursuant to this subdivision.

(f) If the qualified taxpayer fails to provide the copyright registration number as required in subparagraph (E) of paragraph (1) of subdivision (d), the credit shall be disallowed and assessed and collected under Section 19051 until the procedures are satisfied.

(g) For purposes of this section, the California Film Commission shall do the following:

(1) Subject to the requirements of subparagraphs (A) through (E), inclusive, of paragraph (2), on or after July 1, 2015, and before July 1, 2016, in one or more allocation periods per fiscal year, allocate tax credits to applicants.

1 (2) On or after July 1, 2016, and before July 1, 2020, in two or
2 more allocation periods per fiscal year, allocate tax credits to
3 applicants.

4 (A) Establish a procedure for applicants to file with the
5 California Film Commission a written application, on a form jointly
6 prescribed by the California Film Commission and the Franchise
7 Tax Board for the allocation of the tax credit. The application shall
8 include, but not be limited to, the following information:

9 (i) The budget for the motion picture production.

10 (ii) The number of production days.

11 (iii) A financing plan for the production.

12 (iv) The diversity of the workforce employed by the applicant,
13 including, but not limited to, the ethnic and racial makeup of the
14 individuals employed by the applicant during the production of
15 the qualified motion picture, to the extent possible.

16 (v) All members of a combined reporting group, if known at
17 the time of the application.

18 (vi) Financial information, if available, including, but not limited
19 to, the most recently produced balance sheets, annual statements
20 of profits and losses, audited or unaudited financial statements,
21 summary budget projections or results, or the functional equivalent
22 of these documents of a partnership or owner of a single member
23 limited liability company that is disregarded pursuant to Section
24 23038. The information provided pursuant to this clause shall be
25 confidential and shall not be subject to public disclosure.

26 (vii) The names of all partners in a partnership not publicly
27 traded or the names of all members of a limited liability company
28 classified as a partnership not publicly traded for California income
29 tax purposes that have a financial interest in the applicant's
30 qualified motion picture. The information provided pursuant to
31 this clause shall be confidential and shall not be subject to public
32 disclosure.

33 (viii) The amount of qualified wages the applicant expects to
34 pay to qualified individuals.

35 (ix) The amount of tax credit the applicant computes the
36 qualified motion picture will receive, applying the applicable credit
37 percentages described in paragraph (4) of subdivision (a).

38 (x) A statement establishing that the tax credit described in this
39 section is a significant factor in the applicant's choice of location
40 for the qualified motion picture. The statement shall include

1 information about whether the qualified motion picture is at risk
2 of not being filmed or specify the jurisdiction or jurisdictions in
3 which the qualified motion picture will be located in the absence
4 of the tax credit. The statement shall be signed by an officer or
5 executive of the applicant.

6 (xi) Any other information deemed relevant by the California
7 Film Commission or the Franchise Tax Board.

8 (B) Establish criteria, consistent with the requirements of this
9 section, for allocating tax credits.

10 (C) Determine and designate applicants who meet the
11 requirements of this section.

12 (D) (i) For purposes of allocating the credit amounts subject to
13 the categories described in subdivision (i) in any fiscal year, the
14 California Film Commission shall do all of the following:

15 (ii) For each allocation date and for each category, list each
16 applicant from highest to lowest according to the jobs ratio as
17 computed by the California Film Commission.

18 (iii) Subject to the applicable credit percentage, allocate the
19 credit to each applicant according to the highest jobs ratio, working
20 down the list, until the credit amount is exhausted.

21 (iv) Pursuant to regulations adopted pursuant to subdivision (e),
22 the California Film Commission may increase the jobs ratio by up
23 to 25 percent if a qualified motion picture increases economic
24 activity in California according to criteria developed by the
25 California Film Commission that would include, but not be limited
26 to, such factors as, the amount of the production and postproduction
27 spending in California, the utilization of production facilities in
28 California, and other criteria measuring economic impact in
29 California as determined by the Film Commission.

30 (v) Notwithstanding any other provision, any television series,
31 relocating television series, or any new television series based on
32 a pilot for a new television series that has been approved and issued
33 a credit allocation by the California Film Commission under this
34 section, Section 17053.95, 17053.85, or 23685 shall be issued a
35 credit for each subsequent year, for the life of that television series
36 whenever credits are allocated within a fiscal year.

37 (E) Subject to the annual cap and the allocation credit amounts
38 based on categories described in subdivision (i), allocate an
39 aggregate amount of credits under this section and Section
40 17053.95, and allocate any carryover of unallocated credits from

1 prior years and the amount of any credits reduced pursuant to
2 paragraph (2) of subdivision (d).

3 (3) Certify tax credits allocated to qualified taxpayers.

4 (A) Establish a verification procedure for the amount of qualified
5 expenditures paid or incurred by the applicant, including, but not
6 limited to, updates to the information in subparagraph (A) of
7 paragraph (2) of subdivision (g).

8 (B) Establish audit requirements that must be satisfied before
9 a credit certificate may be issued by the California Film
10 Commission.

11 (C) (i) Establish a procedure for a qualified taxpayer to report
12 to the California Film Commission, prior to the issuance of a credit
13 certificate, the following information:

14 (I) If readily available, a list of the states, provinces, or other
15 jurisdictions in which any member of the applicant's combined
16 reporting group in the same business unit as the qualified taxpayer
17 that, in the preceding calendar year, has produced a qualified
18 motion picture intended for release in the United States market.
19 For purposes of this clause, "qualified motion picture" shall not
20 include any episodes of a television series that were complete or
21 in production prior to July 1, 2016.

22 (II) Whether a qualified motion picture described in subclause
23 (I) was awarded any financial incentive by the state, province, or
24 other jurisdiction that was predicated on the performance of
25 primary principal photography or postproduction in that location.

26 (ii) The California Film Commission may provide that the report
27 required by this subparagraph be filed in a single report provided
28 on a calendar year basis for those qualified taxpayers that receive
29 multiple credit certificates in a calendar year.

30 (D) Issue a credit certificate to a qualified taxpayer upon
31 completion of the qualified motion picture reflecting the credit
32 amount allocated after qualified expenditures have been verified
33 and the jobs ratio computed under this section. The amount of
34 credit shown in the credit certificate shall not exceed the amount
35 of credit allocated to that qualified taxpayer pursuant to this section.

36 (4) Obtain, when possible, the following information from
37 applicants that do not receive an allocation of credit:

38 (A) Whether the qualified motion picture that was the subject
39 of the application was completed.

1 (B) If completed, in which state or foreign jurisdiction was the
2 primary principal photography completed.

3 (C) Whether the applicant received any financial incentives
4 from the state or foreign jurisdiction to make the qualified motion
5 picture in that location.

6 (5) Provide the Legislative Analyst's Office, upon request, any
7 or all application materials or any other materials received from,
8 or submitted by, the applicants, in electronic format when available,
9 including, but not limited to, information provided pursuant to
10 clauses (i) to (xi) inclusive, of subparagraph (A) of paragraph (2).

11 (6) The information provided to the California Film Commission
12 pursuant to this section shall constitute confidential tax information
13 for purposes of Article 2 (commencing with Section 19542) of
14 Chapter 7 of Part 10.2.

15 (h) (1) The California Film Commission shall annually provide
16 the Legislative Analyst's Office, the Franchise Tax Board, and the
17 board with a list of qualified taxpayers and the tax credit amounts
18 allocated to each qualified taxpayer by the California Film
19 Commission. The list shall include the names and taxpayer
20 identification numbers, including taxpayer identification numbers
21 of each partner or shareholder, as applicable, of the qualified
22 taxpayer.

23 (2) (A) Notwithstanding paragraph (6) of subdivision (g), the
24 California Film Commission shall annually post on its Internet
25 Web site and make available for public release the following:

26 (i) A table which includes all of the following information: a
27 list of qualified taxpayers and the tax credit amounts allocated to
28 each qualified taxpayer by the California Film Commission, the
29 number of production days in California the qualified taxpayer
30 represented in its application would occur, the number of California
31 jobs that the qualified taxpayer represented in its application would
32 be directly created by the production, and the total amount of
33 qualified expenditures expected to be spent by the production.

34 (ii) A narrative staff summary describing the production of the
35 qualified taxpayer as well as background information regarding
36 the qualified taxpayer contained in the qualified taxpayer's
37 application for the credit.

38 (B) Nothing in this subdivision shall be construed to make the
39 information submitted by an applicant for a tax credit under this
40 section a public record.

(3) The California Film Commission shall provide each city and county in California with an instructional guide that includes, but is not limited to, a review of best practices for facilitating motion picture production in local jurisdictions, resources on hosting and encouraging motion picture production, and the California Film Commissions' Model Film Ordinance. The California Film Commission shall maintain on its Internet Web site a list of initiatives by locality that encourage motion picture production in regions across the state. The list shall be distributed to each approved applicant for the program to highlight local jurisdictions that offer incentives to facilitate film production.

(i) (1) (A) The aggregate amount of credits that may be allocated for a fiscal year pursuant to this section and Section 17053.95 is the applicable amount described in the following, plus any amount described in subparagraph (B), (C), or (D):

(i) Two hundred thirty million dollars (\$230,000,000) in credits for the 2015–16 fiscal year.

(ii) Three hundred thirty million dollars (\$330,000,000) in credits for the 2016–17 fiscal year and each fiscal year thereafter, through and including the 2019–20 fiscal year.

(B) The unused allocation credit amount, if any, for the preceding fiscal year.

(C) The amount of previously allocated credits not certified.

(D) The amount of any credits reduced pursuant to paragraph (2) of subdivision (d).

(2) (A) Notwithstanding the foregoing, the California Film Commission shall allocate the credit amounts subject to the following categories:

(i) Independent films shall be allocated 5 percent of the amount specified in paragraph (1).

(ii) Features shall be allocated 35 percent of the amount specified in paragraph (1).

(iii) A relocating television series shall be allocated 20 percent of the amount specified in paragraph (1).

(iv) A new television series, pilots for a new television series, movies of the week, miniseries, and recurring television series shall be allocated 40 percent of the amount specified in paragraph (1).

(B) Within 60 days after the allocation period, any unused amount within a category or categories shall be first reallocated

1 to the category described in clause (iv) of subparagraph (A) and,
2 if any unused amount remains, reallocated to another category or
3 categories with a higher demand as determined by the California
4 Film Commission.

5 (C) Notwithstanding the foregoing, the California Film
6 Commission may increase or decrease an allocation amount in
7 subparagraph (A) by 5 percent, if necessary, due to the jobs ratio,
8 the number of applications, or the allocation credit amounts
9 available by category compared to demand.

10 (D) With respect to a relocating television series issued a credit
11 in a subsequent year pursuant to clause (v) of subparagraph (D)
12 of paragraph (2) of subdivision (g), that subsequent credit amount
13 shall be allowed from the allocation amount described in clause
14 (iv) of subparagraph (A).

15 (3) Any act that reduces the amount that may be allocated
16 pursuant to paragraph (1) constitutes a change in state taxes for
17 the purpose of increasing revenues within the meaning of Section
18 3 of Article ~~XIII~~ *XIII A* of the California Constitution and may
19 be passed by not less than two-thirds of all Members elected to
20 each of the two houses of the Legislature.

21 (j) The California Film Commission shall have the authority to
22 allocate tax credits in accordance with this section and in
23 accordance with any regulations prescribed pursuant to subdivision
24 (e) upon adoption.

25 SEC. 3. This act provides for a tax levy within the meaning of
26 Article IV of the Constitution and shall go into immediate effect.